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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,041	12/12/2005	Frederic W Strobel	1-36863	1972
43935 7590 12/13/2007 FRASER CLEMENS MARTIN & MILLER LLC 28366 KENSINGTON LANE PERRYSBURG, OH 43551			EXAMINER LEE, GILBERT Y	
			ART UNIT 3673	PAPER NUMBER
			NOTIFICATION DATE 12/13/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

10/541,041

Applicant(s)

STROBEL ET AL.

Examiner

Gilbert Y. Lee

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/23/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Priority*

1. The priority to PCT/US03/41169 must be stated in the first paragraph of the disclosure.

### *Specification*

2. The disclosure is objected to because of the following informalities: on page 6, line 17 "show" should be changed to --shown-- and on page 8, line 7 "place" should be changed to --placed--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7-9 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 7-9 and 15-17, the term "type" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "type"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams (US Patent No. 6,357,065).

Regarding claim 10, the Adams reference discloses a bariatric patient management system (e.g. Figs. 6 and 7) comprising:

a main frame (e.g. 1) having a backrest section (50), a middle section (52), a leg section (54), and a foot section (56) cooperating to form a mattress supporting surface (Fig. 4-9), each of the backrest section, the middle section, the leg section and the foot section including at least one extensible side pull out extension (e.g. 76-79) to increase a width of the mattress supporting surface (Col. 5, Lines 56-67);

a plurality of ground engaging wheels (18) disposed on said main frame to facilitate a transporting of the bariatric patient management system; and

a plurality of actuators (Col. 3, Lines 6-17), an actuation of at least one of said actuators causing an inclination of one of the backrest section, the leg section, and the foot section to effect a change in a contour of the mattress supporting surface (e.g. Figs. 3-5).

Regarding claim 15, the Adams reference, as best understood, discloses the actuators being at least one of a push type and a pull type (Col. 4, Lines 18-30).

Regarding claim 16, the Adams reference, as best understood, discloses the actuators being electric type actuators (Col. 4, Lines 18-30).

Regarding claim 17, the Adams reference, as best understood, discloses the actuators being hydraulic type actuators (Col. 4, Line 58-Col. 5, Line 8).

Regarding claim 18, the Adams reference discloses a bariatric patient management system (e.g. Figs. 6 and 7) comprising:

- a main frame (e.g. 1) having a first end (e.g. end at 74 or 72 in Fig. 3) and a second end (e.g. end at 72 or 74 in Fig. 3);

- a backrest section (e.g. 50) disposed on said main frame adjacent the first end; said backrest section including at least one backrest panel (e.g. 50);

- a middle section (e.g. 52) disposed on said main frame adjacent said backrest section, said middle section including at least one middle panel (e.g. 52);

- a leg section (e.g. 54) disposed on said main frame adjacent said middle section, said leg section including at least one leg panel (e.g. 54);

- a foot section (e.g. 56) disposed on said main frame adjacent the leg section and the second end of said main frame, said foot section including at least one foot panel (e.g. 56), the backrest panel, the middle panel, the leg panel, and the foot panel cooperating to form a mattress supporting surface (e.g. Figs. 3-5),

- a backrest side pull out extension (e.g. 76) slidably disposed in a side of the backrest section;

- a middle side pull out extension (e.g. 77) slidably disposed in a side of the middle section;

a leg side pull out extension (e.g. 78) slidably disposed in a side of the leg section;

a foot side pull out extension (e.g. 79) slidably disposed in a side of the foot section, said backrest side pull out extension, said middle side pull out extension, said leg side pull out extension, and said foot side pull out extension cooperating to increase a width of the mattress supporting surface (Figs. 6 and 7);

a plurality of ground engaging wheels (18) disposed on said main frame to facilitate a transporting of the bariatric patient management system;

a backrest actuator (58) linked to said backrest section, an actuation of said backrest actuator causing an inclination of said backrest section (Col. 4, Lines 40-46);

a leg actuator (64) linked to said leg section, an actuation of said leg actuator causing an inclination of said leg section (Col. 4, Lines 47-57);

a foot actuator (e.g. 70) linked to said foot section, an actuation of said foot actuator causing an inclination of said foot section (Col. 5, Lines 9-23).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 7-9, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams in view of Allen et al. (US Pub. No. 2001/0001163).

Regarding claim 1, the Adams reference discloses a bariatric patient management system (e.g. Figs. 6 and 7) comprising:

a body supporting main frame (e.g. 1) having a mattress supporting surface (including 50, 52, 54, and 56), said main frame including at least one of an extensible side pullout extension (e.g. 76-79) to increase an area of the mattress supporting surface;

a plurality of ground engaging wheels (18) disposed on said main frame to facilitate a transporting of the bariatric patient management system (Fig. 1); and

a plurality of actuators (Col. 3, Lines 6-17) to effect a change in a contour of the mattress supporting surface of said main frame (e.g. Figs. 3-5).

However, the Adams reference fails to explicitly disclose an extensible end pull out extension.

The Allen et al. reference, a hospital bed, discloses the addition of an extensible end pull out extension (Para. [0038]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an extensible end pull out extension to the Adams reference in view of the teachings of the Allen et al. reference in order to allow the bed to fit into smaller elevators and to save space during storage of the bed (Allen et al., Para. [0036]).

Regarding claim 2, the Adams reference, as modified in claim 1, discloses the main frame including a backrest section (Adams, e.g. 50), a middle section (Adams, e.g. 52), a leg section (Adams, e.g. 54), and a foot section (Adams, e.g. 56).

Regarding claim 3, the Adams reference, as modified in claim 2, discloses the actuation of one of said actuators causing an inclination of one of the backrest section, the leg section, and the foot section (Adams, Col. 4, Lines 18-30).

Regarding claim 7, the Adams reference, as modified in claim 1 and best understood, discloses the actuators being at least one of a push type and a pull type (Adams, Col. 4, Lines 18-30).

Regarding claim 8, the Adams reference, as modified in claim 1 and best understood, discloses the actuators being electric type actuators (Adams, Col. 4, Lines 18-30).

Regarding claim 9, the Adams reference, as modified in claim 1 and best understood, discloses the actuators being hydraulic type actuators (Adams, Col. 4, Line 58-Col. 5, Line 8).

Regarding claims 14 and 19, the Adams reference discloses the invention substantially as claimed in claims 1 and 18 respectively.

However, the Adams reference fails to explicitly disclose an extensible end pull out extension.

The Allen et al. reference, a hospital bed, discloses the addition of an extensible end pull out extension (Para. [0038]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an extensible end pull out extension to the Adams reference in view of the teachings of the Allen et al. reference in order to allow the bed to fit into smaller elevators and to save space during storage of the bed (Allen et al., Para. [0036]).



6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams in view of Allen et al. as applied to claims 1-3, 7-9, 14, and 19 above, and further in view of Spath (US Patent No. 4,847,930).

Regarding claim 4, the modified Adams reference discloses the invention substantially as claimed in claim 1.

However, the modified Adams reference fails to explicitly disclose a trapeze base frame having a two-point mounting configuration.

The Spath reference, a hospital bed, discloses a trapeze base frame (e.g. 34) having a two-point mounting configuration (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a trapeze base frame having a two-point mounting configuration to the modified Adams reference in view of the Spath reference in order to allow a patient to raise themselves (Spath, Col. 1, Lines 6-22).

Regarding claim 5, the Adams reference, as modified in claim 4, discloses the trapeze base frame including a pivotally mounted trapeze boom (Spath, e.g. 29).

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams in view of Allen et al. as applied to claims 1-3, 7-9, 14, and 19 above, and further in view of Bartlett et al. (US Pub. No. 2002/013905).

Regarding claim 6, the modified Adams reference discloses the invention substantially as claimed in claim 1.

However, the modified Adams reference fails to explicitly disclose at least one load cell mounted between said wheels and said main frame, said at least one load cell adapted to provide a weight of the bariatric patient management system.

The Bartlett et al. reference, a hospital bed, discloses at least one load cell (522) mounted between said wheels and said main frame (Fig. 31), said at least one load cell adapted to provide a weight of the bariatric patient management system (Para. [0166]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide at least one load cell mounted between said wheels and said main frame, said at least one load cell adapted to provide a weight of the bariatric patient management system to the modified Adams reference in view of the teachings of the Bartlett et al. reference in order to monitor a patient's weight.

8. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams in view of Spath.

Regarding claim 11, the modified Adams reference discloses the invention substantially as claimed in claim 10.

However, the modified Adams reference fails to explicitly disclose a trapeze base frame having a two-point mounting configuration.

The Spath reference, a hospital bed, discloses a trapeze base frame (e.g. 34) having a two-point mounting configuration (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a trapeze base frame having a two-point mounting configuration to

the modified Adams reference in view of the Spath reference in order to allow a patient to raise themselves (Spath, Col. 1, Lines 6-22).

Regarding claim 12, the Adams reference, as modified in claim 4, discloses the trapeze base frame including a pivotally mounted trapeze boom (Spath, e.g. 29).

9. Claims 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams in view of Bartlett et al.

Regarding claims 13 and 20, the modified Adams reference discloses the invention substantially as claimed in claims 10 and 18 respectively.

However, the modified Adams reference fails to explicitly disclose at least one load cell mounted between said wheels and said main frame, said at least one load cell adapted to provide a weight of the bariatric patient management system.

The Bartlett et al. reference, a hospital bed, discloses at least one load cell (522) mounted between said wheels and said main frame (Fig. 31), said at least one load cell adapted to provide a weight of the bariatric patient management system (Para. [0166]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide at least one load cell mounted between said wheels and said main frame, said at least one load cell adapted to provide a weight of the bariatric patient management system to the modified Adams reference in view of the teachings of the Bartlett et al. reference in order to monitor a patient's weight.

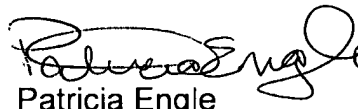
**Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gilbert Y. Lee whose telephone number is 571-272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GL  
December 6, 2007

  
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